

OBSERVATIONS

upon some of his Majesties late *Answers and Expresses.*

The second Edition corrected from some grosse errors in the Presse.

IN this contestation betweene Regall and Paliamentary power, for methods sake it is requisite to consider first of Regall, then of Parliamentary Power, and in both to consider the efficient, and finall causes, and the meanes by which they are supported. *The King attributes the originall of his royaltie to God, and the Law, making no mention of the graunt, consent, or trust of man therein, but the truth is, God is no more the author of Regall, then of Aristocraticall power, nor of supream, then of subordinate command; nay, that dominion which is usurped, and not just, yet whilst it remaines dominion, and till it be legally againe devested, referres to God, as to its Author and donor, as much as that which is hereditary. And that Law which the King mentioneth, is not to be understood to be any speciall ordinance sent from heaven by the ministry of Angels or Prophets (as amongst the Jewes it sometimes was) It can be nothing else amongst Christians but the Pactions and agreements of such and such politique corporations. Power is originally inherent in the people, and it is nothing else but that might and vigour which such or such a societie of men contains in it selfe, and when by such or such a Law of common consent and agreement it is derived into such and such hands, God confirms that Law: and so man is the free and voluntary Author, the Law is the Instrument, and God is the establisher of both. And we see, not that Prince which*

is the most potent over his subjects, but that Prince which is most Potent in his subjects, is indeed most truly potent, for a King of one small City, if he be intrusted with a large Prerogative, may bee sayd to be more Potent over his subjects, then a King of many great Regions, whose prerogative is more limited: and yet in true realitie of power, that King is most great and glorious, which hath the most and strongest subjects, and not he which tramples upon the most contemptible vassells. This is therefore a great and fond error in some Princes to strive more to be great over their people, then in their people, and to eclipse themselves by impoverishing, rather then to magnifie themselves by infranchising their Subjects. This we see in France at this day, for were the Peasants there more free, they would be more rich and magnanimous, and were they so, their King were more puissant; but now by affecting an adulterate power over his Subjects, the King there looses a true power in his Subjects, imbracing a cloud instead of *Junio*. but thus we see that power is but secondary and derivative in Princes, the fountaine and efficient cause is the people, and from hence the inference is just, the King, though he be *singulis Major*, yet he is *universis minor*, for if the people be the true efficient cause of power, it is a rule in nature *quicquid efficit tale, est magis tale*. And hence it appears, that at the founding of authorities, when the consent of societies convayes rule into such and such hands, it may ordaine what conditions, and prefix what bounds it pleases, and that no dissolution ought to be thereof, but by the same power by which it had its constitution.

As for the finall cause of Regall Authoritie, I doe not finde any thing in the Kings papers denying, that the same people is the finall, which is the efficient cause of it, and indeed it were strange if the people in subjecting it selfe to command, should ayme at any thing but its owne good in the first and last place. Tis true according to Machavills politicks, Princes ought to ayme at greatnes, not in, but over their Subjects, and for the atchieving of the same, they ought to propose to themselves, no greater good then the spoiling and breaking the spirits of their Subjects, nor no greater mischief, then common freedome, neither ought they to promote or cherish any servants but such as are most fit for rapine and oppression, and depresse and prosecute any as enemies, but such as are gracious with the implacy for noble and gallant Acts.

To be *delicia humani generis* is growne sordid with Princes, to be publike torments and carnificines, and to plot against those Subjects whom by nature they ought to protect, is held *Caesar* like, and therefore bloody *Borgias* by meere crueltie & treachery hath gotten roome
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in the Calender of witty, and of spirited *Heroes*. And our English Court of late yeares hath drunke too much of this State poyson, for eyther wee have seene favorites rayfed to poll the people, and razed againe to pacifie the people; or else (which is worse for King and people too) we have seene engines of mischief preserved against the people, and upheld against Law, meerely that mischief might not want encouragement. *But our King here, doth acknowledge it the great businesse of his coronation oath to protect us:* And I hope under this word *protect*, he intends not onely to shield us from all kind of evill, but to promote us also to all kind of Politicall happinesse according to his utmost devoyre, and I hope hee holds himselfe bound thereunto, not onely by his oath, but also by his very Office, and by the end of his soveraigne dignitie. And though all single persons ought to looke upon the late Bills passed by the King as matters of Grace with all thankfulness and humility, yet the King himselfe looking upon the whole State, ought to acknowledge that hee cannot merit of it, and that whatsoever he hath granted, if it be for the prosperity of his people (but much more for their ease) it hath proceeded but from his meere dutie. If Ship money, if the Starre Chamber, if the High Commission, if the Votes of Bishops and Popish Lords in the upper House, be inconsistent with the welfare of the Kingdome, not onely honour but justice it selfe challenges that they be abolisht; the King ought not to account that a profit or strength to him, which is a losse and wasting to the people, nor ought he to thinke that perisht to him which is gained to the people: The word grace sounds better in the peoples mouthes then in his, his dignitie was erected to preserve the Commonaltie, the Commonaltie was not created for his service: and that which is the end is farre more honorable and valuable in nature and policy, then that which is the meanes. This directs us then to the transcendent *αχμη* of all Politiques, to the Paramount Law that shall give Law to all humane Lawes whatsoever, and that is *Salus Populi*: The Law of Prerogative it selfe, it is subservient to this Law, and were it not conducing thereunto, it were not necessary nor expedient. Neither can the right of conquest be pleaded to acquit Princes of that which is due to the people as the Authors, or ends of all power, for meere force cannot alter the course of nature, or frustrate the tenour of Law, and if it could, there were more reason, why the people might justifie force to regaine due libertie, then the Prince might to subvert the same. And tis a shamefull stupidity in any man to thinke that our Ancestors did not fight more nobly for their free customes and Lawes, of which the conqueror and his successors had in part disinherited them by violence and perjury, then they which put them to such conflicts, for it seemes unnatural to me that any nation should be bound

to contribute its owne inherent puissance, meerely to abet Tiranny, and support slavery: and to make that which is more excellent, a prey to that which is of lesse worth. And questionlesse a native Prince, if meere Force be right, may disfranchise his Subjects as well as a stranger, if he can frame a sufficient party, and yet we see this was the foolish sinne of *Rehoboam*, who having deserted and rejected out of an intollerable insolence, the strength of ten tribes, ridiculously sought to reduce them againe with the strength of two. I come now from the cause, which conveyes Royalty, and that for which it is conveyed, to the nature of the conveyance. The word *Trust* is frequent in the Kings Papers, and therefore I conceive the King does admit that his interest in the Crowne is not absolute, or by a meere donation of the people, but in part conditionate and fiduciary. And indeed all good Princes without any expresse contract betwixt them and their Subjects, have acknowledged that there did lie a great and high trust upon them; nay Heathen Princes that have beene absolute, have acknowledged themselves servants to the publike, and borne for that service, and professed that they would manage the publike weale, as being well satisfied *populi Rem esse, non suam*. And we cannot imagine in the fury of warre, (when lawes have the least vigour) that any *Generalissimo* can be so uncircumscribed in power, but that if he should turne his Canons upon his owne Souldiers, they vvere *ipso facto* absolved of all obedience, and of all oathes and ties of allegiance vvhatssoever for that time, and bound by higher dutie, to seeke their owne preservation by resistance and defence: vvhwherefore if there bee such tacite trusts and reservations in all publike commands, though of the most absolute nature, that can be supposed, vve cannot but admit, that in all well formed monarchies, vvhether kingly Prerogative has any limits set, this must needs be one necessary condition, that the subject shall live both safe and free. The Charter of nature intitles all Subjects of all Countries vvhatssoever to safetie by its supream Law. But freedome indeed has divers degrees of latitude, and all Countries therein doe not participate alike, but positive Lawes must every vvhether assigne those degrees.

The great Charter of England is not strait in Priviledges to us, neither is the Kings oath of small strength to that Charter, for that though it bee more precise in the care of Canonick Priviledges, and of Bishops and Clergy men (as having beene penned by Popish Bishops) then of the Commonalty, yet it confirms all Lawes and rightfull customes, amongst vvhich vve most highly esteeme Parliamentary Priviledges; and as for the word *Eligerit*, whether it be future, or past, it skills not much; for if by this oath, Law, Justice and discretion be executed amongst us in all judgments (as vvell in, as out of Parliament) and if peace and godly agreement be intirely kept amongst us all, and if the King defend and uphold all our lawes

lawes and customes, vve need not feare but the King is bound to consent to new Lawes if they be necessary, as vvell as defend old : for both being of the same necessity, the publique trust must needs equally extend to both ; and vve conceive it one Parliamentary right and custome, that nothing necessary ought to be denyed. And the vvord *Eligerit*, if it be in the *perfect tense*, yet shewes that the peoples election had beene the ground of ancient Lawes and customes, and vvhy the peoples election in Parliament should not be now of as great moment as ever, I cannot discover.

That vvhich results then from hence, is, if our Kings receive all royalty from the people, and for the behoofe of the people, and that by a speciall trust of safety and libertie expressely by the people limited, and by their owne grants and oathes ratified, then our Kings cannot be sayd to have so unconditionate and high a proprietie in all our lives, liberties and possessions, or in any thing else to the Crowne appertayning, as vve have in their dignity, or in our selves, and indeed if they had, they vv ere not borne for the people, but merely for themselves, neither were it lawfull or naturall for them to expose their lives and fortunes for their Country, as they have beene hitherto bound to doe, according to that of our Saviour, *Bonus Pastor ponit vitam pro ovibus*. But now of Parliaments : Parliaments have the same efficient cause as monarchies, if not higher, for in the truth, the vvhole Kingdome is not so properly the Author as the essence it selfe of Parliaments, and by the former rule tis *magis tale*, because vve see *ipsum quid quod efficit tale*. And it is I thinke beyond all controversie, that God and the Law operate as the same causes, both in Kings and Parliaments, for God favours both, and the Law establishes both, and the act of men still concurre in the sustentation of both. And not to stay longer upon this, Parliaments have also the same finall cause as Monarchies, if not greater, for indeed publike safety and liberty could not be so effectually provided for by Monarchs till Parliaments were constituted, for the supplying of all defects in that Government.

Two things especially are aymed at in Parliaments, not to be attayned to by other meanes. First that the interest of the people might be satisfied; secondly that Kings might be the better counsailed. In the summons of *Edw.* the first (*Clauſ. 7. 111. 3. Dorſ.*) we see the first end of Parliaments expressed: for he inserts in the writ that whatsoever affayre is of publike concernment, ought to receive publike approbation, *quod omnes tangit ab omnibus approbari debet*, or *tractari*. And in the same writ he saith, this is *lex notissima & provida circumspectione stabilita*, there is not a word here, but it is observeable, publike approbation, consent, or treatie is necessary in all publike expedients, and this is not a meere usage in England, but a Law, and this Law is not subject to any doubt or dispute, there is nothing more

knowne, neither is this knowne Law extorted from Kings, by the violence and injustice of the people, it is duely and formally establisht, and that upon a great deale of reason, not without the providence and circumspection of all the states. Were there no further Antiquity, but the raigne of *Edward* the first to recommend this to us, certainly so, there ought no reverence to be withheld from it, for this Prince was wise, fortunate, just, and valiant beyond all his Predecessors, if not successors also, and therefore it is the more glory to our freedoms, that as weake and peevish Princes had most opposed them, so that he first repaired the breaches which the conquest had made upon them. And yet it is very probable that this Law was farre ancienter then his raigne, and the words *lex stabilita & notissima* seemes to intimate, that the conquest it selfe, had never wholly buried this in the publike ruine and confusion of the State. It should seeme at this time *Llewellyns* troubles in Wales were not quite suppressed, and the French King was upon a designe to invade some peeces of ours in France, and therefore he sends out this summons *ad tractandum ordinandum, & faciendum cum Prelatis Proceris & aliis incolis Regni*, for the prevention of these dangers: These words *tractandum, ordinandum, faciendum*, doe fully prove that the people in those dayes were summoned *ad consensum*, as well as *ad concilium*, and this Law, *quod omnes tangit, &c.* shewes the reason and ground upon which that consent and approbation is founded. It is true we finde in the raigne of *Edward* the third, that the Commons did desire that they might forbear counselling in things *de quibus ils n'ont pas cognizance*; the matters in debate were concerning some intestine commotions, the guarding of the Marches of Scotland and the Seas; and therein they renounce not their right of consent, they onely excuse themselves in point of counsell, referring it rather to the King and his Counsell. How this shall derogate from Parliaments either in point of consent or counsell I do not know, for at last they did give both, and the King would not be satisfied without them, and the passage evinces no more but this, that that King was very wise and Warlike, and had a very wise counsell of vvarre, so that in those particulars the Commons thought them most fit to be consulted, as perhaps the more knowing men.

Now upon a due comparing of these passages with some of the Kings late Papers, let the world judge whether Parliaments have not beene of late much lessened and injured. The King in one of his late Answers, *Alledges that his Writs may teach the Lords and Commons the extent of their Commission and trust, which is to be Counsellors, not commanders, and that not in all things, but in quibusdam arduis*, and the case of *Wentworth* is cited, who was by *Queene Elizabeth* committed (sitting the Parliament) for proposing

proposing that they might advise the Queene in some things, which she thought beyond their cognizance, although *Wentworth* was then of the House of Commons.

And in other places *the King denies the assembly of the Lords and Commons* when he withdrawes himselfe, to be rightly named a Parliament; or to have any power of any Court, and consequently to be any thing, but a meere convention of so many private men.

Many things are here asserted utterly destructive to the honour, right, & being of Parliaments. For first, because the Law had trusted the King with a Prerogative to discontinue Parliaments: therefore if he did discontinue Parliaments to the danger or prejudice of the Kingdome, this was no breach of that trust, because in formalitie of Law the people might not assemble in Parliament but by the Kings writ, therefore in right and equity they were concluded also, so that if the King would not graunt his Writ, when it was expedient, he did not proove unfaithfull, or doe any wrong to the people; for where no remedy is, there is no right. This doctrine was mischievous to us when the King had a Prerogative to disuse Parliaments, and if it be not now exploded and protested against, may yet be mischievous in the future dissolution of Parliaments, for that power still remaines in the Kings trust; and if to goe against the intent of trust be no wrong, because perhaps it is remediable, our Trienniall Parliaments may prove but of little service to us; Secondly when Parliaments are assembled they have no Commission to Counsell but in such points as the King pleases to propose, if they make any transition in other matters, they are liable to imprisonment at the Kings pleasure, witnesse *Wentworths Case*. A meere example (though of Queene *Elizabeth*) is no Law, for some of her actions were retracted, and yet without question Queene *Elizabeth* might do that which a Prince lesse beloved could never have done: There is a way by goodnesse and clemency for Princes to make themselves almost unimitable, and this way Queene *Elizabeth* went, and without doubt had her goodnesse and Grace beene fained, shee might have usurped an uncontrollable arbitrary lawlesse Empire over us. The Sunne sooner makes the travailour desert his Cloake, then the wind; And the gracious acts of soft Princes (such as *Tiberius* did at first personate) if they be perfectly dissembled may more easily invade the subjects liberty then the furious proceedings of such as *Caligula* was, but we must not be presided in apparent violations of Law by Queene *Elizabeth*; for as generall reverence gave her power to doe more then ordinary, so her perfect undissembled goodnesse, upon which her reverence was firmly planted, made the same more then ordinary fact in her lesse dangerous then it would have beene in

in another Prince. In this point then leaving the meere fact of *Queene Elizabeth*; wee will retire backe to the ancient Law and reason of *Edward the first*, and wee thereby shall maintaine that in all cases wheresoever the generality is touched, the generality must bee consulted.

Thirdly, if the Lords and Commons bee admitted to some Cognizance of all things wherein they are concerned, yet they must meerely Counsell, they must not command, and the King Reasons thus, that it is impossible the same trust should bee irrevocably committed to Us, and our Heires for ever, and yet a power above that trust (for so the Parliament pretends) bee committed to others, and the Parliament being a body and dissoluble at pleasure, it is strange if they should bee guardians and controllers in the manage of that trust which is granted to the King for ever. It is true, two supreames cannot bee in the same fence and respect, but nothing is more knowne or assented to then this, that the King is *singulis major*, and yet *universis minor*, this wee see in all conditionall Princes, such as the Prince of Orange, &c.

And though all Monarchies are not subject to the same conditions, yet there scarce is any Monarchy but is subject to some conditions, and I thinke to the most absolute Empire in the world this condition is most naturall and necessary, That the safetie of the people is to bee valued above any right of his, as much as the end is to bee preferred before the meanes; it is not just nor possible for any nation so to enslave it selfe, and to resigne its owne interest to the will of one Lord, as that that Lord may destroy it without injury, and yet to have no right to preserve it selfe: For since all naturall power is in those which obay, they which contract to obay to their owne ruine, or having so contracted, they which esteeme such a contract before their owne preservation are felonious to themselves, and rebellious to nature.

The people then having intrusted their protection into the Kings hands irrevocably, yet have not left that trust without all manner of limits, somethings they have reserved to themselves out of Parliament, and some thing in Parliament, and this reservation is not at all inconsistent with the Princes trust, though hee desire to violate the same; but on the contrary, it is very ayding and strengthening to that trust, so farre as the Prince seekes to performe it, for the peoples good; but it is objected, that a temporary power ought not to bee greater then that which is lasting and unalterable, if this were so, the

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Romans had done unpolitikely, in creating Dictators, when any great extremitie assailed them, and yet wee know it was verie prosperous to them, sometimes to change the forme of government; neither alwayes living under circumscribed Consuls, nor yet under uncircumscribed Dictators: but it is further objected, that if wee allow the Lords and Commons *to be more than Councellors, we make them Commanders and Controllers; and this is not suitable to Royaltie.* We say here, that to consent is more than to counsell, and yet not alwayes so much as to command and controll; for in inferiour Courts, the Judges are so Councellors for the King, as that the King may not countermand their judgments, and yet it were an harsh thing to say, that they are therefore Guardians and Controllers of the King: and in Parliament, where the Lords and Commons represent the whole Kingdome, (to whom so great a Majestie is due) and sit in a far higher capacitie than inferiour Judges doe, being vested with a right both to counsell and consent, the case is far stronger; and as wee ought not to conceive, that they will either counsell or consent to any thing, but what is publikely advantageous; so by such Councell and consent, wee cannot imagine the King limited or lessened: for if it was by so knowne a Law, and so wisely established in *Edward the firsts dayes*, the right of the people, to be summoned at *tractandum, ordinandum, faciendum, approbandum*, in all things appertaining to the people, and this as then was not prejudiciall to the King, why should the Kings Writ now abbreviate or annull the same? If the King himself be disable for many high matters, till consent in Parliament adde vigour to him, it cannot be supposed that hee comes thither meerly to heare Councell, or that when he is more than counselled, that it is any derogation, but rather a supply of vertue to him. A fourth thing alleaged to the derogation of Parliaments is, *That whatsoever the right of Parliaments is to assemble or treat in all cases of a publique nature, yet without the Kings concurrence and consent, they are livelesse conventions without all vertue and power, the verie name of Parliament is not due to them.* This allegation at one blow confounds all Parliaments, and subjects us to as unbounded a regiment of the Kings meere will, as any Nation under Heaven ever suffered under. For by the same reason, that Parliaments are thus vertuleffe and void Courts, upon the Kings desertion of them, other Courts must needs be

the like, & then what remains, but that all our lawes, rights, & liberties, be either no where at all determinable, or else onely in the Kings breast? We contend not meerly about the name Parliament, for the same thing was before that name, and therefore the intent is, that the great Assembly of the Lords and Commons doe not represent and appeare in the right of the whole Kingdome, or else that there is no honour, nor power, nor judicature, residing in that great and Majestickall Body, then which, scarce any thing can be more unnaturall. But these divisions betwene the King and Parliament, and betwixt the Parliament and Kingdome, seeming more uncouth, 'tis attempted to divide further betwene part and part in Parliament, so making the major part not fully concluding, and in the major part, between a faction misleading, and a party mislead. Such excellent Masters of division has *Machiavils* rule (*divide et impera*) made since the 3 of November 1640. 'Tis a wonderfull thing, that the Kings Papers being frayed scarce with any thing else but such doctrines of division, tending all to the subversion of our ancient fundamentall constitutions which support all our ancient liberties, and to the erection of arbitrary rule, should finde such applause in the world: but we say further, that there is manifest difference between deserting, and being deserted: if the wife leave her husbands bed, and become an adulteresse, 'tis good reason that shee loose her dowry, and the reputation of a wife, but if the husband will causelessly reject her, 'tis great injustice that she should suffer any detriment thereby, or be dismissed of any priviledge whatsoever. So if the King have parted from His Parliament, meerly because they sought his oppression, and he had no other meanes to withstand their tyranny, let this proclaime them a voyd Assembly: but if ill Counsaile have withdrawne him, for this wicked end meerly, that they might defeat this Parliament, and derogate from the fundamentall rights of all Parliaments (as His Papers seeme to expresse) under colour of charging some few factious persons in this Parliament, (God forbid) that this should disable them from saving themselves and the whole state, or from seeking justice against their enemies. So much of the Subjects right in Parliament.

Now of that right which the Parliament may doe the King by Councell; if the King could bee more wisely or faithfully
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advised by any other Court, or if His single judgement were to be preferred before all advice whatsoever, 'twere not onely vaine, but extremely inconvenient, that the whole Kingdome should be troubled to make Elections, and that the parties elected should attend the publique buisnesse; but little need to be said, I thinke every mans heart tels him, that in publique Consultations, the many eyes of so many choyce Gentlemen out of all parts, see more then fewer, and the great interest the Parliament has in common justice and tranquillity, and the few private ends they can have to deprave them, must needs render their Counsell more faithfull, impartiall, and religious, then any other. That dislike which the Court has ever conceived against Parliaments, without all dispute is a most pregnant prooffe of the integrity, and salubrity of that publique advice, and is no disparagement thereof, for we have ever found enmity and antipathy betwixt the Court and the countrey, but never any till now betwixt the Representatives, and the Body, of the Kingdome represented. And were we not now, those dregges of humane race upon whom the unhappy ends of the world are fallen, Calunny and Envie herselfe would never have attempted, to obtrude upon us such impossible charges of Treason and Rebellion against our most sacred Councell, from the mouthes of Popish, Prelaticall, and Military Courtiers.

The King sayes; *It is impr. bable and impossible that his Cabinet Counsellours, or his Bishops or souldiers, who must have so great a share in the misery, should take such pains in the procuring thereof, and spend so much time, and run so many hazards to make themselves slaves, and to ruine the freedom of this Nation: how strange is this? wee have had almost 40 yeeres experience, that the Court way of preferment has beene by doing publike ill Offices, and we can nominate what Dukes, what Earles, what Lords, what Knights, have been made great and rich by base disservices to the State: and except Master Hollis his rich Widow, I never heard that promotion came to any man by serving in Parliament: but I have heard of trouble and imprisonment. But now see the traverse of fortune; The Court is now turned honest, my Lord of Strafford's death has wrought a sudden conversion amongst them, and there is no other feare now, but that a few Hypocrites in Parliament will beguile the major part there, and*

to usurpe over King, Kingdome, and Parliament for ever, sure this is next to a prodigy, if it be not one : but let us consider the Lords and Commons as meere Counsellors without any power or right of Counselling or consenting, yet wee shall see if they be not lesse knowing and faithfull than other men, they ought not to be deserted, unlesse we will allow that the King may chuse whither he will admit of any counsell at all or no, in the disposing of our lives, lands, and liberties. But the King sayes, *that he is not bound to renounce his owne understanding, or to contradict his owne conscience for any Counsellors sake whatsoever.* 'Tis granted in things visible and certaine, that judge which is a sole Judge and has competent power to see his owne judgement executed, ought not to determine against the light of nature, or evidence of fact.

The sinne of *Pilate* was, that when he might have saved our Saviour from an unjust death, yet upon accusations contradictory in themselves, contrary to strange Revelations from Heaven, he would suffer Innocence to fall, and passe sentence of death, meerly to satisfie a bloud-thirsty multitude. But otherwise it was in my Lord of *Straffords* case, for there the King was not sole Judge, nay, he was uncapeable of sitting as judge at all, and the delinquent was legally condemned, and such heynous matters had beene proved against him, that his greatest friends were ashamed to justifie them, and all impartiall men of three whole Kingdomes conceived them mortall ; and therefore the King might therein, with a clear conscience have signed awarrant for his death, though he had dissented from the judgement. So if one judge on the same bench, dissent from three, or one juror at the barre from a eleven, they may submit to the major number, though perhaps lesse skilfull then themselves without imputation of guilt : and if it be thus in matters of Law, *a fortiori*, 'tis so in matters of State, where the very satisfying of a multitude sometimes in things not otherwise expedient, may proove not onely expedient, but necessary for the settling of peace, and ceasing of strife. For example : It was the request of the whole Kingdome in the Parliament to the King, to intrust the *Militia*, and the Magazine of *Hull*, &c. into such hands as were in the peoples good esteeme. Conscience and understanding could plead nothing against this, and if it could have beene averred (as it could

could not, for the contrary was true) that this would have bred disturbance, and have beene the occasion of greater danger, yet Where the people by publique authority will seeke any inconvenience to themselves, and the King is not so much intressed in it as themselves, 'tis more inconvenience and injustice to deny then grant it : what blame is it then in Princes when they will pretend reluctance of conscience and reason in things behoo- full for the people? and will use their fiduciary power in denying just things, as if they might lawfully do whatsoever they have power to do, when the contrary is the truth, and they have no power to do but what is lawfull and fit to be done. So much for the ends of Parliamentary power. I come now to the true nature of it, publike consent : we see consent as well as counsell is requisite and due in Parliament and that being the proper foundation of all power (for *omnis Potestas fundata est in voluntate*) we cannot imagine that publike consent should be any where more vigorous or more orderly than it is in Parliament. Man being depraved by the fall of *Adam* grew so untame and uncivill a creature, that the Law of God written in his brest was not sufficient to restrayne him from mischief, or to make him sociable, and therefore without some magistracy to provide new orders, and to judge of old, and to execute according to justice, no society could be upheld. Without society men could not live, and without lawes men could not be sociable, and without authority somewhere invested, to judge according to Law, and execute according to judgement, Law was a vaine and void thing. It was soon therefore provided that lawes agreeable to the dictates of reason should be ratified by common consent, and that the execution and interpretation of those Lawes should be intrusted to some magistrate, for the preventing of common injuries betwixt Subject and Subject, but when it after appeared that man was yet subject to unnaturall destruction, by the Tyranny of intrusted magistrates, a mischief almost as fatall as to be without all magistracie, how to provide a wholesome remedy therefore, was not so easie to be invented. 'Twas not difficult to invent Lawes, for the limittling of supreme governors, but to invent how those Lawes should be executed or by whom interpreted, was almost impossible, *nam quis custodiat ipsos custodes*; To place a superiour above a supreme, was held unnaturall, yet what a

Uselesse fond thing would Law be, without any judge to determine it, or power to enforce it; and how could humane conso- ciation be preserved, without some such Law? besides, if it be agreed upon, that limits should be prefixed to Princes, and judges appointed to decree according to those limits, yet an other great inconvenience will presently affront us; for we cannot restrain Princes too far, but we shall disable them from some good, as well as inhibit them from some evil, and to be disabled from doing good in some things, may be as mischievous, as to be inhibited for all evils at meere discretion. Long it was ere the world could extricate it selfe out of all these extremities, or finde out an orderly meanes whereby to avoid the danger of unbounded prerogative on this hand, and too excessive liberty on the other: and scarce has long experience yet fully satisfied the minds of all men in it. In the infancy of the world, when man was not so artificiall and obdurate in cruelty and oppression as now, and when policy was more rude, most Nations did chuse rather to submit themselves to the meere discretion of their Lords, then to rely upon any limits: and to be ruled by Arbitrary edicts, then written Statutes. But since Tyranny being growne more exquisite, and policy more perfect, (especially in Countreys where Learning and Religion flourish) few Nations will indure that thraldome which uses to accompany unbounded & unconditionate royaltie. yet long it was ere the bounds and conditions of supreme Lords were so wisely determined or quietly conserved as now they are; for at first when *Ephors, Tribunes, Curatores &c.* were erected to poyze against the scale of Sovereignty, much blood was shed about them, and states were put into new broyles by them, and in some places the remedy proved worse then the disease. In all great distresses the body of the people was ever constrained to rise, and by the force of a Major party to put an end to all intestine strifes, and make a redresse of all publique grievances, but many times calamities grew to a strange height, before so comfortable a body could be raised; and when it was raised, the motions of it were so distracted and irregular, that after much spoile and effusion of blood, sometimes only one Tyranny was exchanged for another: till some way was invented to regulate the motions of the people's molinious body. I think arbitrary rule was no blesse for the world, but now since most Countries have found

found out an Art and peaceable Order for Publique Assemblies, whereby the people may assume its owne power to do it selfe right without disturbance to it selfe, or injury to Princes, he is very unjust that will oppose this Art and order. That Princes may not be now beyond all limits and Lawes, nor yet left to be tryed upon those limits and Lawes by any private parties, the whole community in its undervived Majesty shall convene to do justice, and that this convention may not be without intelligence, certaine times and places and formes shall be appointed for its reglement, and that the vastnesse of its owne bulke may not breed confusion: by vertue of election and representation, a few shall act for many, the wise shall content for the simple, the vertue of all shall redound to some, and the prudence of some shall redound to all. And sure, as this admirably composed Court which is now called a Parliament, is more regularly and orderly formed, then when it was called the nicke Synod, or Witenagenot, or when this real body of the people did throng together at it: so it is not yet perhaps without some defects, which by art and policy might receive further amendment, some divisions have beene sprung of late betweene both Houses, and some betweene the King and both Houses, by reason of the uncertaintie of jurisdiction; and some Lawyers doubt how far the Parliament is able to create new formes and preidents; and has a jurisdiction over it selfe. All these doubts would be solemnly solved. But in the first place, the true Priviledges of Parliaments, not onely belonging to the being and efficacy of it, but to the honour also & complement of it, would be clearly declared: for the very naming of Priviledges of Parliament, as if they were Chimera's to the ignorant sort, & utterly unknown to the learned, hath beene entertained with scorn since the beginning of this Parliament. The vertue of representation hath beene denied to the Commons, and a severance has beene made betwixt the parties chosen and the parties choosing, and so that great Priviledge of all Priviledges, that unmoveable Basis of all honour and power, whereby the House of Commons claimes the entire rise of all the Gentry and Commonalty of England, has beene attempted to be shaken and disturbed. Most of our late distempers and obstructions in Parliament have proceeded from this: that the people upon causelesse defama-

tion and unproved accusations have beene so prone to withdraw themselves from their representatives, and yet there can be nothing under Heaven, next to renouncing God, which can be more perfidious and more pernicious in the people than this.

Having now premised these things, I come to the maine difficulties lying at this time in dispute before us. it is left unquestioned that the legislative power of this Kingdome is partly in the King, and partly in the Kingdome, and that in ordinary cases, when it concernes not the saving of the people from some great danger or inconvenience, neither the King can make a generall binding Law or Ordinance without the Parliament, or the Parliament without the King, and this is by a knowne Maxime, *Non recurrendum est ad extraordinaria &c.*

It ought to be also as unquestioned, that where this ordinary course cannot be taken for the preventing of publike mischiefs, any extraordinary course that is for that purpose the most effectually, may justly be taken and executed by the most transcendent over-ruling *Primum Mobile* of all humane Lawes, if the King will not joyne with the people, the people may without disloyalty save themselves, and if the people should be so unnaturall as to oppose their owne preservation, the King might use all possible means for their safetie. Yet this seemes to be denyed by the King, for he sets forth Proclamations and cites Statutes in them to prove, that the power of levying armes and forces is solely in him, and he presses them indefinitely, not leaving to the Subject any right at all of rising in armes, though for their owne necessary defence, except he joynes his consent and Authority: In the same manner also, he so assumes to himselfe a share in the legislative power, as without his concurrence the Lords and Commons have no right at all to make any temporary orders for putting the Kingdome into a posture of defence, in what publique distresse soever: And therefore in Sir John Holtams case, he doth not onely charge him of Treason, for observing the Parliaments instructions and Commissions in a pretended danger, but he pronounceth the mere act Treason, let the circumstances be what they will. Let the world judge whether this be not contrary to the clearest beames of humane reason, and the strongest inclinations of nature, for every private man may defend himselfe by force, if assaulted, though by the force of a Magistrate or

or his owne father, and though he be not without all confidence by flight &c. yet here whole nations being exposed to enmity and hazard, being utterly incapable of flight, must yeeld their throats and submit to Assassins, if their King will not allow, them defence.

See if this be not contrary to the originall, end, and trust of all power and Lawe, and whether it doe not open a gap to as vast and arbitrary a prerogative as the Grand Seignior has, and whither this be not the maine ground of all those bitter invectives almost which are iterated and inforced with so much eloquence in all the Kings late papers. See if wee are not left as a prey to the same bloody hands as have done such diabolically exploits in *Ireland*, or to any others which can perswade the King that the Parliament is not well affected to him, if we may not take up armes for our owne safety, or if it be possible for us to take up armes, without some Votes or ordinances to regulate the *Militia*, or to make our defence manly, and not beastiall and void of all Counsell. The name of a King is great I confesse, and worthy of great honour, but is not the name of people greater? let not meere tearms deceive us, let us weigh names and things together, admit that God sheds here some rayes of Majesty upon his vicegerents on earth, yet except we thinke he doth this out of particular love to Princes themselves, and not to communties of men, wee must not hence invert the course of nature, and make nations subordinate in end to Princes. My Lord of *Sirafford*, sayes that the Law of Prerogative is like that of the first table, but the Law of Common safety and utility like that of the second, and hence concludes, that precedence is to be given to that which is more sacred, (that is) Regall Prerogative. Upon this ground all Parasites build when they seeke to hood-winke Princes for their owne advantages, and when they assay to draw that esteeme to
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themselves, which they withdraw from the people: and
 this doctrine is common, because 'tis so acceptable: for as
 nothing is more pleasant to Princes then to be so deified,
 so nothing is more gainfull to Courtiers then so to
 please. But to look into termes a little more narrower,
 and dispell umbrages; *Princes are called Gods, Fathers,*
Husbands, Lords, Heads, &c. and this implies them to be of
 more worth and more un subordinate in end, then their
 Subjects are, who by the same relation must stand as *Crea-*
tures, Children, Wives, Servants, Members, &c. I
 answer, these termes do illustrate some excellency in
 Princes by way of similitude, but must not in all things
 be applyed, and they are most truly applyed to Subjects,
 taken *divisim*, but not *conjunctim*: Kings are Gods to
 particular men, *secundum quid*, and are sanctified with
 some of Gods royaltie; but it is not for themselves, it is
 for an extrinsecall end, and that is the prosperitie of
 Gods people, and that end is more sacred than the
 meanes. as to themselves they are most unlike God; for
 God cannot be obliged by any thing extrinsecall, no
 created thing whatsoever can be of sufficient value or
 excellencie to impose any dutie or tye upon God, as Sub-
 jects upon Princes: therefore granting Prerogative to
 be but mediate, and the Weale Publike to be finall, wee
 must rank the Lawes of libertie in the first Table, and
 Prerogative in the second, as Nature doth require; and
 not after a kind of blasphemy ascribe that un subordinat-
 ion to Princes, which is only due to God; so the King
 is a Father to his People, taken singly, but not univer-
 sally; for the father is more worthy than the son in na-
 ture, and the son is wholly a debtor to the father, and can
 by no merit transcend his dutie, nor challenge any thing
 as due from his father; for the father doth all his offices
 meritoriously, freely, and unexactedly. Yet this holds
 not in the relation betwixt King & Subject, for its more
 due in policie, and more strictly to be challenged, that the
 King

(17)
King should make happy the People, than the People make glorious the King. This same reason is also in relation of Husband, Lord, &c. for the wife is inferiour in nature, and was created for the assistance of man, and servants are hired for their Lords meere attendance; but it is otherwise in the State betwixt man and man, for that civill difference which is for civill ends, and those ends are, that wrong and violence may be repressed by one, for the good of all, not that servilitie and drudgerie may be imposed upon all, for the pomp of one. So the head naturally doth not more depend upon the body, than that does upon the head, both head and members must live and dye together; but it is otherwise with the Head Politicall, for that receives more subsistence from the body than it gives, and being subservient to that, it has no being when that is dissolved, yet that may be preserved after its dissolution.

And hence it appeares, that the verie order of Princes binds them not to be insolent, but lowly; and not to aime at their owne good but secundarily, contrarie to the Florentines wretched Politiques. And it followes, that such Princes, as contrarie to the end of government, effect evill in stead of good, insulting in common servilitie, rather than promoting common securitie, and placing their chiefe pomp in the sufferance of their Subjects, commit such sins as God will never countenance; nay, such as the unnaturall father, the tyrannous husband, the mercilesse master is not capable of committing; nay, we must conceive that Treason in Subjects against their Prince, so far only as it concernes the Prince, is not so horrid in nature, as oppression in the Prince exercised violently upon Subjects. God commands Princes to study his Law day and night, and not to amasse great treasures, or to encrease their cavalries, or to lift up their hearts above their brethren, nor to wast their owne de-

C 2 meanes,

meanes, lest necessitie should tempt them to rapine. But on the contrarie, *Machiavels* Instructions puffe up Princes, That they may treat Subjects not as brethren, but as beasts, as the basest beasts of drudgerie, teaching them by subtiltie, and by the strength of their Militia, to uphold their owne will, and to make meere sponges of the publike coffers: And sure if that cursed Heretike in policie could have invented any thing more repugnant to Gods commands, and Natures intention, he had been held a deeper Statesman than hee is; but I conceive it is now sufficiently cleared, that all rule is but fiduciarie, and that this and that Prince is more or lesse absolute, as he is more or lesse trusted, and that all trusts differ not in nature or intent, but in degree on y and extent: and therefore since it is unnaturall for any Nation to give away its owne proprietie in it selfe absolutely, and to subject it selfe to a condition of servilitie below men, because this is contrarie to the supreme of all Lawes, wee must not think that it can stand with the intent of any trust, that necessarie defence should be barred, and naturall preservation denyed to any people; no man will deny, but that the People may use meanes of defence, where Princes are more conditionate, and have a soveraigntie more limited, and yet these being only lesse trusted than absolute Monarchs, and no trust being without an intent of preservation, it is no more intended that the People shall be remedilessly oppressed in a Monarchy, than in a Republique. But tracing this no further, I will now rest upon this, that whatsoever the King has alleaged against raising of Armes, and publishing of Orders indefinitely, is of no force to make Sir *Iohn Hatham*, or those by whose authoritie hee acted, Traytours, unlesse it fall out that there was no ground nor necessitie of such defence. So much of danger certaine.

I will now suppose the danger of the Commonwealth
uncertaine.

uncertaine, the King sayes; the Parliament denyes; the King commands, the Parliament forbids: The King sayes the Parliament is seduced by a traiterous faction; the Parliament sayes the King is seduced by a Malignant Party: the King sayes the Parliament tramples upon his Crown; the Parliament sayes the King intends War upon them: to whither now in this uncertainty is the Subject bound to adhere? I will not insist much upon generall presumptions, though they are of moment in this case: for without all question 'tis more likely, that Princes may erre and have sinister ends, then such generall conventions of the Nobility, Gentry, and Commonalty so instituted, and regulated as ours are in England. The King does highly admire *the ancient, equall, happy, well-poyzed and never enough commended constitution of this Government, which hath made this Kingdome, so many years both famous and happy, to a great degree of envie, and amongst the rest, our Courts of Parliament: and therein more especially, that power which is legally placed in both Houses, more then sufficient (as he sayes) to prevent and restraine the power of Tyranny;* But how can this be? if the King may at His pleasure take away the being of Parliament meerely by dissent, if they can doe nothing but what pleases Him, or some Clandestine Councellours, and if upon any attempt to doe any thing else, they shall be called Traitors, and without further arraignment, or legall proceeding, be deserted by the Kingdome whose representatives they are, what is there remaining to Parliaments? are they not more servile then other inferiour Courts; nay, are they not in a worse condition, then the meanest Subject out of Parliament? and how shall they restraine tyranny, when they have no substance at all themselves; nay, nor no benefit of Justice, but arbitrary. Surely if these principles hold, they will be made the very Engines and

Scaffolds whereby to erect a government more tyrannicall then ever was knowne in any other Kingdome, wee have long groaned for them, but we are likely now to groane under them: but you will say, the King hath a power of dissent, he may use it at his pleasure, if hee have none, then he is a meere Cypher, and the Parliament may tyrannize at pleasure: either the one or the other must bee predominant, or else by a mutuall opposition all must perish; and why not the King predominant rather then the Parliament? We had a maxime, and it was groundd upon Nature, and never till this Parliament withstood, that a community can have no private ends to mislead it, and make it injurious to it selfe, and no age will furnish us with one story of any Parliament freely elected, and held, that ever did injure a whole Kingdome, or exercise any tyranny, nor is there any possibility how it should. The King may safely leave his highest rights to Parliaments, for none knowes better, or affects more the sweetness of this so well-ballanced a Monarchy then they do, and it hath been often in their power under great provocations to load that rule with greater fetters & clogs, but they would not. Let us marke but the nature, the sight, the power, the wisdom, the justice, of Parliaments, and we shall finde no cause to suspect them, of such unmatchable treasons and conspiracies as are this day, and never was before charged upon them, for our Chronicles makes it apparent, that there is scarce any other Nation wherein Monarchy has been more abused by rash inconsiderate Princes, then in this, nor none at all wherein it hath been more inviolably adored, and loyally preserved from all diminution, I wish it were not some incitement to those execrable Instruments, which steale the Kings heart from us, that they thinke the Religion of Protestants too tame, and the Nation of the English too incensible of injuries; but I hope
God

God will the more tenderly resent these things. The composition of Parliaments, I say, takes away all jealousies, for it is so equally, and geometrically proportionable, and all the States doe so orderly contribute their due parts therein, that no one can be of any extreame predominance, the multitude loves Monarchy better then Aristocracy, and the Nobility and Gentry, prefer it as much beyond Democracy, and we see the multitude hath onely a representative influence, so that they are not likely to sway, and yet some influence they have, and that enough to preserve themselves from being overswaid. We also in England have not a Nobility and Gentry so independent and potent as in France, Germany, Denmarke, &c. Nor as they were here immediately after the Conquest, by reason of their great Feoffes, whereby to give Lawes either to the Crowne, or the people; but they stand at such faire and comely distances between the King and people, and also betweene themselves, *that they serve for an excellent Skreene and bank (as the Kings words are) to assist both King and people against the encroachments of each other.* And as the middle Region of the aire treats loving offices betwixt heaven and earth, restraining the fumes and exhalations of Sea and Land, that they ascend not too high, and at the same instant, allaying that restless Planets scorching flames, which else might prove insufferable to the lower Elements: So doth both Houses of Parliament, as peaceably and sweetly arbitrate betwixt the Prince and his poorest Vassals, and declining Tyranny on the one side, and Ochlocracy on the other, preserving intire to the King the honour of His Scepter, and to the people the patrimony of freedome. Let us not then seeke to corrupt this purity of composition, or conceive that both Gentry, and Nobility can combine against the King, when they have no power but derivative, the one more depending

depending upon the King, and the other upon the people, but both most excellently to affect the good of the whole, and to prevent the exorbitance of any one part. Next, the right of all the Lords and Commons in this State is so great, that no change of goverement can be advantage to them in that temporary capacity, except they could each one obtaine an hereditary Crowne, which is a thing utterly impossible. Next, their power is meerely derivative, so that except we will conceive that both King and people will be consenting to the usurpation, nothing can be done; and if wee conceive that they may by fraud gaine their consent, nothing can withstand them. Lastly, their wisdom hath beene ever held unquestionable, and their justice inviolable, no Prince that ever cast himselfe thereupon was defrauded, no Prince that ever declined the same, proved prosperous. In sum, Parliamentary government being used as Physicke, not dyet by the intermission of due spaces of time, has in it all that is excellent in all formes of Government whatsoever. If the King be an affector of true liberty, he has in Parliament a power as extensive as ever the Romane Dictators was, for the preventing of all publike distresses. If the King be apt to intrude upon the common liberties, the people have hereby many Democraticall advantages to preserve themselves. If Warre bee, here is the Unitive vertue of Monarchy to encounter it, here is the admirable Councell of Aristocracy to manage it. If Peace be, here is the industry and courage of democracy to improve it. Let us now see how Kings usually governe without Parliaments, especially such as are ruled by Councell averse from Parliaments. I need not speake of France, and other Countries, where together with these generall Assemblies, all liberty is false to the ground; I need not travell further then our stories, nay, I need not passe beyond our owne Times, my discourse will be endlesse if I doe.

The

The wisest of our Kings following their owne private advise, or being conducted by their owne wills, have mistaken their best Subiects, for their greatest enemies, and their greatest enemies for their best Subiects, and upon such mistakes our iustest Kings, have often done things very dangerous. And without upbraiding I may say, that this King by the fraud of such as have incensed him against Parliaments, and his most loyall people, hath so far been possesst with a confidence in the zeale of Traytors, that he hath scarce ever yet enjoyed that grandour and splendor which his Ancestors did enjoy. He hath met in the field with two contrary Armies of his own Subiects, and yet that Army which he went to destroy, and advanced their colours against him, was more loyall than that which himselfe commanded, and yet both were more loyall than those fatall whisperers which ingaged them so one against the other, if the whole Kingdome of *Scotland* had been more hearkened to, than some few malignants of the Popish, and Prelaticall faction, the King had sooner found out the fidelity of that whole Kingdome, and the infidelity of that wicked faction. But as things then stood, the King was as much incensed against them, as he is against us now, and he that did then perswade him that the Scots were no Rebels, seemed as great an enemy as he doth now that shall defend the innocency of Sir *John Horham*; there was no difference at all betwixt that ease of the Scots, and this of ours, the King attributed then as much to his own conscience and understanding, as he doth now, and he attributed as little then to the publike Votes of that Kingdome, as he doth now to this, only in this, our condition is the more unhappy, because that so fresh and memorable experiment doth not at all profit us, but still by a strange kinde of relapse, the King seemes now the more firmly to relie upon his own private reason, and counsell, the more cause he hath to confide in publike advertisements, and the more he professes to doe contrary. The maine question now is, whether the Court, or the Parliament gives the King the better Councell; the King sayes, he cannot without renouncing his own conscience and reason, prefer the Parliaments Councell before the Courts, and that which the King here calls Conscience and reason, can be nothing else but meere private opinion; for if the Councell of the Parliament were directly opposite to common understanding, and good conscience, and the Councell of the Court were evidently consonant thereunto, there needed no such contestation: For example, the Parliament conceives that such and such ill offices have been done to frame parties, and unite forces against

the Parliament & the State, and therefore they desire that such Townes, and Forts, and the publick *Militia* may be intrusted to the custody and command of such Noblemen and Gentlemen as they confide in; the Kings secret Court-Councell suggests against this, that this request incloseth at reasonable intention in it, and that the ayme is to wrest all power out of the Kings hand, that he may be forced to depose himselfe; the effect of this is no more but to let the King know, that they are more wise and faithfull than the Parliament, and that hee may doe royally to hearken to them in condemning the Lords and Commons of most inexpiable, unnaturall, impossible Treason, for they must needs love him better then the Parliament, but he cannot hearken to the Lords and Commons without offering violence to his owne reason and conscience; here we see the misery of all, if Princes may not be led by their owne opinions, though infused by obscure whisperers, when they scandall the loyalty of whole kingdomes without cause, rather then by the sacred and awfull counsels of whole Nations, they are denyed liberty of conscience, and raviisht out of their owne understandings. And yet if Princes may be admitted to prefer such weak opinions before Parliamentary motives and petitions, in those things which concerne the Lives, Estates, and Liberties of thousands, what vain things are Parliaments, what unlimitable things are Princes, what miserable things are Subiects? I will enlarge my selfe no longer upon this endlesse Theame: Let us look upon the Venetians, and such other free Nations, why are they so extreemly ielous over their Princes, is it for feare lest they should attaine to an absolute power? It is meerely for feare of this bondage, that their Princes will dote upon their owne wills, and despise publike Councils and Laws, in respect of their owne private opinions; were not this the sting of Monarchy, of all formes it were the most exquisite, and to all Nations it would be the most desirable: Happy are those Monarchs which qualifie this sting, and happy are those people which are governed by such Monarchs.

I come now to the particularities of our own present case, for it may be said, that though publik advise be commonly better than private, yet in this case it may be otherwise; some men have advised the King, that the Parliament hath trayterous designs both against his Person & Crown, and not to be prevented but by absenting himselfe, denying his influence and concurrence, frustrating and protesting against their proceedings as invalid and seditious, and laying heavy charges of Rebellion upon them, to this advise the King hearkens, so the Parliament requests,

quests, and advises the contrary, and now in the midst of all our calamities, of gasping *Ireland*, and bleeding *England*, the Parliament seeing that either they must make use of their legislative power and make ordinance to secure some Forts and settle the *Militia* of the Kingdom in sure hands, and to prevent the seducers of the King, or else two Kingdoms should probably bee lost, they doe accordingly. The King proclaymes to the contrary notwithstanding. The question then as I conceive is this onely, whether or no the King hath any just cause to suspect the Parliament of Treason (and can make appeare to the world as some of his Papers mention) wherein they have attempted or plotted any thing against his person and Crowne, which was the onely motive why hee sought to absent himselfe from *London*, and to possesse himselfe of *Hull*, and to frame such an impeachment against some of both Houses, if this can be affirmed and proved, the Parliament shall be held guilty in all their Votes, Ordinances and Commissions concerning Sir *John Horham* and the *Militia*, &c. Although it be the first time that any free Parliament was ever so criminous, but if this cannot bee prooved, it must be granted that according to the Votes of Parliaments, the Kings departure did by frustrating Parliamentary proceedings, in a time of such calamitie and distresse greatly indanger two Kingdoms, and whosoever advised the King to that departure, and to the charging of Treason, since layd upon the Parliament (and all such as have obeyed them, in seeking to prevent publicke mischeefes) are as pernicious enemies to this State, as ever received their being from it. The businesse of *Hull* is most instanced in, let that be first surwayd, Sir *John Horham* is to be lookt upon but as the Actor, the Parliament as the Author in holding *Hull*, and therefore it is much wondered at, that the King seemes more violent against the Actor then the Author, but since through the Actor the Author must needs be pearced, if the Act be found Treason, let us consider of circumstances, the same act may be treasonable or not, if such and such circumstances vary, for example, to possesse a Towne and shut the gates against a King is Treason, if there be not something in the act or in the intention, or in the Authoritie of him that shuts the gates to qualifie and correct the nature of Treason in that act,

The first thing then to be lookt on is, that the King was meereley denyed entrance for that time, his generall right was not denyed, and no defying language was given, no act of violence was used, though

the King for divers houres together did stand within Musket shot, and did use termes of defiance, and this makes the act meerely defensive, or rather passive. And therefore how this should administer to the King any ground to leavy guards at *Yorke*, many men wonder, or that it should seeme the same thing to the King, as if hee had beene pursued to the gates of *Yorke*. Did the King without any feare treat Sir *John Horham* as a Traytor in the face of his Artillery, and offer to enter *Hull* with twentie Horse onely unarmed, and continue such a harsh Parley, so many houres, and yet when hee was in *Yorke*, in a County of so great assurance, could nothing but so many bands of Horse and Foot secure him from the same Sir *John Horham*? The next thing considerable is the Parliaments intention: if the Parliament have here upon turned any of the Townesmen out of their estates, or claymed any interest in it to themselves, or have disseized the King, utterly denying his right for the future, or have made any other use of their possession, but meerely to prevent civill warre, and to disfurnish the Kings seducers of Armes and Ammunition: let the State bee branded with Treason, but if none of these things bee by any credit, though their enemies should bee judges, the most essentiall propertie of Treason must needs here bee absent in this act.

The next thing considerable is the Parliaments Authoritie, if the Parliament bee not vertyually the whole kingdome it selfe, if it bee not the supreamie judicature, as well in matters of State as matters of Law, if it be not the great Councell of the Kingdome, as well as of the King, to whom it belongeth by the consent of all nations to provide in all extraordinary cases, *Ne quid detrimenti capiat Respub*: let the brand of Treason sticke upon it, nay if the Parliament would have used this forcible meanes unlesse petitioning would not have prevailed, or if their grounds of jealousie were merely vaine, or if the jealousie of a whole kingdome can bee counted vaine, or if they claime any such right of judging of danger, and preventing them without the Kings consent as ordinary and perpetuall, and without any relation to publike danger, let the reward of Treason be their guerdon.

But if their authoritie be so sacred, their intention so loyall, their act free from offensive violence, and if the King might have prevented the same repulse by sending a messenger before hand, or by coming without such considerable Forces in so unexpected a manner, let not treason be here misplaced. Had *Faux* false by a private mans
Sword

Sword in the very instant, when he would have given fire to his trayne, that act had not bin punishable; and the Scots in England tooke *Newcastle* but by private authoritie, yet there were other qualifications in that act sufficient to purge it of Treason, and he is not comprehensive of the value of a whole State, nor of the vigour of our nationall union which does not so interpret it; how much more unjust then is it that the whole State of England shall be condemned of Treason for doing such an act as this, when its owne safetie, wherein none can have so much interest as it selfe, was so highly touched? Let not all resistance to Princes be under one notion confounded, let the principles and ingredients of it be justly examined, and sometimes it will be held as pious and loyall to Princes themselves, as at other times it is destructive and impious. Let us by the same test try the actions, intentions, and authoritie of the Papists now in *Ireland*; and compare them with this businesse at *Hull*, and we shall see a diametricall contrarietie betweene them. Their actions are all blood, rapine, and torture, all ages, all sexes, all conditions of men have tasted of their infernall crueltye. Their intentions are to extirpate that Religion which hath indeavored so long to bring them from Idolatry and Atheisme, and to massacre that nation which hath indeavoured so gently to reduce them from poverty and beaustiall barbarisme. Their chiefe leaders in this horrid tragedy, are Jesuites and meeke Bandetoes, and the Authority of King, Parliament, and Magistracy is the principall thing which they strike at, and seeke to overwhelm in this deplorable deluge of blood; such a direct contrariety then being betwixt the true Rebels in *Ireland*, and the misnamed Rebels here in England, the same men which condemne the one, if they would be true to themselves, they ought to commend the other, for we have had experience often in England, and other nations have had the like, that Kings have marched forth amongst their enemies to encounter with their friends, so easily are they to be flattered into error, and out of error to seeke the ruine of those which ayme at nothing but perdition. And yet questionlesse when *Richard* the second was invironed with the Forces of *Spencer*, and his confederates, vowing to sacrifice their blood in his quarrell, and in defiance of the adverse trayterous Peeres, he which would have told him, that those Swords drawne for him, were in truth drawne against him and his best friends, and those Swords on the other side drawne against him, or rather against his seducers were indeed drawne for him, should have found but poore acceptance, for without doubt the King would

have thought such a suggestion an abuse to his senses, to his reason, to his conscience, and an impudent imposture, worthy of nothing but scorne and indignation. And if it had beene further pressed that the voyce and counsell of the Peeres was the voyce and counsell of the major and better part of the Kingdome, whereas *Spencers* party was but of inconsiderable fortunes, and his Counsell was but private, and might tend to private ends, it is likely the King at the last resort; would have referred all to his owne will and discretion; but I have now done with the businesse of *Hull*, and therein I thinke with all objections against the Loyaltie of the Parliament, for the same reason will extend to all their Votes and actions concerning the *Militia, &c.* and in summe all ends in this; if Kings bee so inclineable to follow private advise rather then publique, and to preferre that which closes with their naturall impotent ambition, before that which crosses the same, are without all limits, then they may destroy their best subjects at pleasure, and all Charters and Lawes of publike safetie and freedome are voyd, and God hath not left humane nature any meanes of sufficient preservation. But on the contrary, if there bee any benefit in Lawes to limit Princes when they are seduced by Privadoes, and will not hearken to the Great Counsell of the Land, doubtlesse there must be some Court to judge of that seducement, and some authoritie to enforce that iudgement, and that Court and Authoritie must bee the Parliament, or some higher Tribunall, there can be no more certaine Crisis of seducement, then of preferring private advise before publique. But the King declines this point, and saith, that hee doth not undervalue the whole Parliament, or lay charge of Treason upon all, he doth confesse that divers have dissented, and divers beene absent, &c. hee deserts onely, and accuses the faction and conspiracy of some few in Parliament. Wee are now at last fallen upon an issue fit to put an end to all other invectives, let us sticke close to it. The King promises very shortly a full and satisfactory narration of those few persons in Parliament: whose designe is, and alwayes was to alter the whole frame of government both in Church and State, and to subject both King and people to their owne lawlesse Arbitrary power and government; a little of this Logioke is better then a great deale of Rhetoricke, as the case now stands. If the King will please now to publish the particular crimes of such, as hee hath formerly impeached of Treason, and the particular
names

names of such as now hee sets forth in those Characters, and will therein referre himselfe to the strength of his proofes, and evidence of his matter, it is impossible that any jealousie can cloud his integritie, or checke his power any longer; Then it will appeare to all, that he hath not left us, out of any disaffection to Parliaments, or out of any good opinion of Papists, Delinquents, and other Incendiaries, but that hee was necessitated to depart from us, that hee might be the better able to preserve to us our Religion, Lawes and liberties, and that none of his solemn oathes of cordiall love to us hath wanted integritie and faith. This will satisfie all lovers of Justice, that he gives not light credit to weake whisperers or malicious informers (whose ayme may bee to bring this Parliament to some ignoble tryall, or to confound it without any tryall at all by generall asperitions and meere calumnious surmises) this will proclaime his candor and sinceritie, and set a brighter luster upon his Justice, then any oratory whatsoever. By the performance of this promise he shall not doe onely right to himselfe, but also to the whole kingdome, for the distracted multitude, being at last by this meanes undeceived, shall not onely prostrate themselves, and all their power presently at his feet, but for ever after remaine the more assured of his good, whether to publike liberties and Parliamentary Priviledges. Howsoever nothing but the awfull promise of a King could make us thinke so dishonorably of Parliaments, or suspend our judgements so long of them; for an Aristocracy in Parliament cannot bee erected without meanes, and what this meanes shall be, is yet to us altogether inscrutable, for the power of Parliaments is but derivative and depending upon publike consent, and how publike consent should be gained for the erection of a new unlawfull odious tyranny amongst us, is not discernable, the whole kingdome is not to bee mastered against consent, by the Traine Band, nor the Traine Bands by the Lords or debutie Lieutenants, nor they by the maior part in Parliament, nor the maior part in Parliament by I know not what *septem-virat*, there is some mystery in this which seemes yet above, if not contrary to nature, but since the King hath promised to open it, we will suspend our opinion and expect it as the finall issue of all our disputes.

The maine body of the difference being thus stated, I come now to the observations of some other severall obiections against this Parliament, and exceptions taken against arbitrary power in all Parliaments, and I shall observe no order, but consider them

as I finde them, either dispersed or recollected in the Kings late Expresses.

The Parliament being complayned against for undutifull usage to the King above all former Parliaments, hath said, *that if they should make the highest presidents of other Parliaments their patterne, there would be no cause to complaine of want of modesty and dutie.*

The King, because some Parliaments formerly have deposed Kings, applies these words to those Presidents, but it may iustly be denyed that free Parliaments did ever truly consent to the dethroaning of any King of England, for that Act whereby *Richard* the second was deposed, was rather the Act of *Hen.* the fourth, and his victorious Army, then of the whole Kingdome.

The Parliament is taxed of reproaching this Kings government, to render him odious to his subiects, whereas indeed all the miscarriages and grievous oppressions of former times are solely imputed to the ill Ministers and Councillors of the King, *And all the misfortunes of these times since November, 1640. are imputed to the blame of the Parliament:* the Kings words to the Parliament are, *That the condition of his Subjects when it was at worst under his government was by many degrees more pleasant and happy then this to which the Parliaments furious pretence of reformation hath brought them to.* In this case the Parliament being accused of so haynous crimes, did uniuersally betray themselves, if they should not lay the blame upon the Kings evill Councillors, the onely enemies and interrupters of Parliaments. Neverthelessse the King takes this as a way of the Parliament to let them into their franke expressions of him and his actions, and takes all things spoken against his ministers, as spoken against himselfe, how miserable here is the condition of the Parliament, eyther they must sinke under uniuersal charges, or be censured for the reproachers of their king, nay they are undutifull, if they tell not the King himselfe, that he ought not to onerate himselfe with the blame of his Councillors.

The Parliament, because it could obtaine no equall Justice from the Court-Caveleers, who are conceived to be the first movers of those stirres and tumults which happened at *Westminster*, did reserve the hearing of some of the contrary side it selfe, upon this it is objected, *that the Parliament incited those seditious; and protected the actors in it,* whereas they desire Justice yet, and that both sides may be brought fairely to an equall hearing, and before such hearing they desire that no parties may be condemned.

And

And whereas the Parliament, upon those rude commotions, are condemn'd as unheard, and of that which is unproved, and never can be proved, *That they leav'd Warre upon the King, and drove him away*, yet they desire that that meer imputation may not draw any further opposition to their proceedings, and the necessities of the State; for if the King could not stay at *London* with safety, yet being now at *York* in safety, he may concur with the advice of his Parliament; the distance of the place needs not cause any distance of affection, since the King conceives *He hath so few enemies, and assures himself of so many friends in Parliament.*

The Parliament sayes, *That none of its Members may be apprehended in case of suspicion, where no information or witnesse appear, to make good the Prosecution, without acquainting the Parliament, if leave may be conveniently obtained.* In opposition to this a case is put, *Of a Parliament-man that rides from York to London, and takes a purse by the way*, the Parliament doth not privilege Robberies so done; for though no such thing be likely ever to be done, yet if it be, in that case the evidence of the fact in that instant, allowes not onely the apprehending, but the casuall killing of such a Robber: Who sees not many differences betwixt such a case, and that of the five Members of the lower House, where neither Witnesse, nor Informers, nor Relaters, nor any particularity of crime could be produced? and yet by the same act the whole House might have been surprized: And all the world knows, That the impeached Members still suffer by that Charge, and yet can obtain no right against any Informers, though it be now converted to their disadvantage.

The Parliament does not deny the King a true reall Interest in any thing held by him, either *in jure Corona*, or *in jure Personæ*, yet meerly because it affirms, That in the same thing the State hath an Interest Paramount in cases of publique extremity; by vertue of which it may justly seize, and use the same for its own necessary preservation. Hereupon, the King replies, *That this utterly abolishes His Interest in all things, so that by this device, He is made incapable, either of suffering wrong, or receiving right*: a strange violented wrested conclusion; and yet the Kings Interest in *Hull*, and in the lives of his subjects, is not such an Interest as in other moveables, neither is the Kings Interest taken away from him; the same things are still reserved for him, in better hands then he would have put them. The Parliament maintains its own Councell to be of honour and

power above all other, and when it is unjustly rejected, by a King seduced, and abused by private flatterers, to the danger of the Commonwealth, it assumes a right to judge of that danger, and to prevent it: the King sayes, *That this gives them an arbitrary unlimited power to unsettle the security of all mens estates, and that they are seducible, and may abuse this power, nay they have abused it*; and he cites the Anabaptists in *Germany*, and the 30 Tyrants at *Athens*. That there is an Arbitrary power in every State somewhere tis true, tis necessary, and no inconvenience follows upon it; every man has an absolute power over himself; but because no man can hate himself, this power is not dangerous, nor need to be restrained: So every State has an Arbitrary power over it self, and there is no danger in it for the same reason. If the State intrusts this to one man, or few, there may be danger in it; but the Parliament is neither one nor few, it is indeed the State it self; it is no good consequence, though the King makes so much use of it, That the Parliament doth abuse power, because it may: The King would think it hard that we should conclude so against him, and yet the King challenges a greater power then Parliaments: and indeed if the Parliament may not save the Kingdome without the King, the King may destroy the Kingdome in despite of the Parliament; and whether then challenges that which is most Arbitrary, and of most danger? but the King sayes, *This Parliament has abused their power*. (I wish Kings had never abused theirs more) And the Parliament answers, *That this is but his nude avirment, and in controversies that ought not to condemn private men, much lesse ought Parliaments to fall under it*. And as for Mr Hooker, he does not say, That the Anabaptists in *Germany* did deceive Parliaments with their hypocrisie, and therefore inferre that Parliaments ought no further to be trusted: the stirres of the Anabaptists in *Germany* conclude no more against Parliaments, then the impostures of *Mahomet* in *Arabia* do. And as for the 30 Tyrants of *Athens*, we know they were not so chosen by the people, as our Knights, Citizens, and Burgeses are, nor created or called by any Kings Writ, as our Peers are; nor did they so meerly depend upon their own good abearing, and the good liking both of King and State, as our Lords and Commons now do; neither had they so many equalls and Rivalls as both our Houses contain: we know their power was not founded upon the consent of the Citizens, but the strength of their Souldiers; neither were their Souldiers such as our Train Bands, but

but meer mercenaries of desperate, or perhaps no Fortunes, whose Revenue was rapine, whose Trade was murder : I fear they were more like our Cavaliers at *Yorke*, then the *Militia* at *London* : Were our new *Militia* any other then our old Trayn Bands, or our new Lieutenants, and Deputies, any other then the same Lords and Gentlemen, with very little variation, which before were very well reputed of, both by King and Commons, and not yet by either excepted against, or did the whole fate of the kingdom depend meerly upon the new *Militia*, this new device of an *Aristocrasie* might seem the more plausible ; but as things now stand, this new *Aristocraticall* Fabrick cannot seem to any impartial man, but as empty a shadow, and ayrie a dream as ever mans fancie abused it self withall.

The Parliament sayes, *That the Kings power is fiduciary, and not to be used against the Kingdom, but for it only.* The King hereupon demands, *May any thing be taken from a man, because he is trusted with it ? Or may the person himself take away the thing he trusts when he will, and how he will ?* Our case of *Hull* is not so generall, The things there remaining in the Kings trust for the use of the Kingdom were Arms, and by consequence of more danger, then other kinde of Chattels. And if I intrust my cloak to an others custody, I may not take it away again by force ; But if it be my sword, and there is strong presumption, that it may be drawn upon me, I may use any means to secure it.

The Parliament claims a right of declaring, and interpreting Law. The King makes this question thereupon ? *Is the Law it self subject to your Votes, that whatsoever you say, or do, shall be lawfull, because you declare it so ? Am I supream, and yet you above me ? Must my power be governed by your discretion ?* This is the Popes Arrogance, That all must submit their understanding, and Scripture it self, to His declaring power : and a case is put of the Irish Rebels, making themselves a major part in Parliament, and so voting against the true Religion, &c. In perspicuous, uncontroverted things, the Law is it own interpreter, and there no Judge is requisite, and the Parliament cannot be taxed to have declare Law by the rule of their Actions ; They have squared their Actions according to Law, They may be censured, but they cannot be convinced of any injustice. Tis true, In meer matters of State, the Par-

liament is not bound to strict preſidents at all times, but in matters of right, and Juſtice they have not deviated, either to the right hand, or to the left: Howſoever, In matters of Law and State both, where ambiguity is, ſome determination muſt be ſupream, and therein, either the Kings power and truſt muſt be guided by the diſcretion of the Parliament; or elſe the Parliament, and all other Courts muſt be overruled by the Kings meer diſcretion; and there can be nothing ſaid againſt the Arbitrary ſupremacy of Parliaments, &c. But farre more upon better grounds, may be ſaid againſt the Arbitrary ſupremacy of the King. As for the Popes Arrogance, who undertakes to interpret Scripture where it wants no interpreter, And in matters of meer opinion to uſurpe over all mens conſciences, As if he had an infallibility in his ſole breaſt. He is not an inſtance ſo fitly to be alleaged againſt Parliaments, as Princes, For tis very probable, That if the Church had not ſubmitted it ſelf to ſo ſlaviſh a condition under one Man, but had been governed by ſome generall Junto of Divines fairly elected, it had never ſwerved into ſuch ſoul idolatry, and ſuperſtition, as it has done.

As for the caſe of *Ireland*, I conceive, tis improperly urged; For *England* and *Ireland* are one and the ſame Dominion, There is as true and intimate an Union betwixt them, as betwixt *England* and *Wales*; And though by reaſon of remote ſituation, they do not meet in one, and the ſame Parliament; yet their Parliaments, as to ſome purpoſes, are not to be held ſeverall Parliaments. And therefore, If the paſiſts in *Ireland* were ſtronger, and had more Votes in Parliament then the Proteſtants, yet they would want authority to overrule any thing voted, and eſtabliſhed before in *England*. For the reaſon, why the minor part in all ſuffrages ſubſcribes to the major is, That bloud may not be ſhed. For in probability, The major part will prevail, and elſe ſtrife, and bloudſhed would be endleſſe: Wherefore the major part in *Ireland*, by the ſame reaſon ought to ſit down and acquieſce, becauſe *Ireland* is not a ſeverall monarchy from *England*; nor is that a major part of *Ireland*, and *England* too; for if it were, it would give Law to us, as we now give Law there; and their Statutes would be of as much vertue here, as ours are there.

The Parliament In caſe of extream danger, challenges an Authority of ſeizing the Militia in ſure hands, and removing doubtfull perſons; if the King will not be entreated to do it of himſelf? The Kings ſayes, This is to put
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His intrusted power out of Himself into others, and so to deuest and disable Himself for the protection of His people. This is a strange mistake. The Parliament desires no removeall of that power which was in the King, But that which was in such or such a Substitute? And how does this deuest and disable the King? And if the King sayes, That He has a better opinion of such a Substitute, then of an other, Though the Parliament conceive otherwise, Then what does He but prefer His own private opinion before the most Honourable of all Councells, before the voyce of the whole Kingdom? What higher Law then have we remaining, then the Kings will? And as for his account to God, will it be easier for him to pleade, That he used such an instrument of His own meer discretion against publike advice if things prove unhappy, then that He followed the most noble Councell, and such whose lives, fortunes, and interests, were most deeply concerned in it? And as for those absurde unreasonable, incredible suppositions of the injustice, and treasons of Parliaments, as if they were lesse carefull of the publike good, then single Rulers, Though it be spoken in derision, wise men perhaps may be not so apt to laugh in applause, as in contempt of it. For how has the Parliament removed the rub of all Law out of its way, because it assumes to it self to be higher then any other Court, and to be in declaring Law, as farre beyond the Kings single countermands in Parliament, as other inferiour Courts are out of Parliaments? Or how, has it erected a new upstart Authority to affront the King, and maintain an Aristocraticall usurpations, when the main body of the *Militia* is still the same as it was, and such as the King professes no suspicion of, and no alteration is of the heads thereof, except only in some few popishly inclined, or not publicly so honoured, and confided in as they ought? And when the same Allegiance is performed, The same Supremacy of power confessed to be now in the King over the *Militia*, as has ever been? Nay, What ground can there be for this imaginary usurpation, when the King professes, He fixes not that traiterous designe upon both, or either House of Parliament, being most confident of the Loyalty, Good Affections, and Integrity of that great Body? Is the main body of the Kingdom loyall? Is the main body of the Parliament loyall? Is the King true to Himself? And is all His great partie of Clergymen, Courtiers, Souldiers, &c. constant? And yet is there a machination in hand, to introduce Aristocraticall usurpation odious to all men; which nei-

ther Kingdom, Parliament, King, nor all the Royallists can oppose? What a strange unfathomable machination, and work of darkness is this? *But this is said to be done by cunning, force, absence, or accident.* If it be by cunning, Then we must suppose that the Kings party in Parliament has lost all their Law, policy, and subtilty, And that all the Parliament, except some few are luld-a sleep by *Mercuries* Minstrelsie; or that some diabolicall charme has closed up all their vari useyes. If it be by force, Then we must suppose that our Aristocraticall heads carry about them great store of that Serpents teeth which yeilded heretofore so sudden and plentiful a harvest of armed men, being but cast into the furrows of the earth, Though their armies have been hitherto invisible, yet we must suppose, That they are in a readinesse to rise upon the first Alarum beaten. If it be by absence, then we must suppose, That this Aristocraticall machination is easily yet to be prevented, for tis not a hard matter to draw a full apparence together, and that we see has been done lately by the order of the House it self. Nay, we see tis not the House, but the opposite part that desires to scatter, and divide, and draw away, and as much as in them lyes to hinder a full assembly: And therefore, This is not the way. If it be by accident, Then we must be contented to expect, and have a little patience; Fortune is not alwayes constant to one certain posture, nor do the Celestiall bodies confine themselves to one unaltered motion.

The Parliament requests of the King, *That all great Officers of State, by whom publike affaires shall be transacted, may be chosen by approbation, or nomination of the great Councell.* The King takes this as a thing maliciously plotted against him, as a proposition made in mockery of him, as a request which He cannot yeeld to, without shewing Himself unworthy of that trust, which Law reposes in Him, and of His descent from so many great and famous Ancestors: He conceives, He cannot perform the Oath of protecting His people if He abandon this power, and assume others into it. He conceives it such a Flower of the Crown, as is worth all the rest of the Garland, not to be parted with all upon any extremity of conquest or imprisonment; nor for any low sordid considerations of wealth, and gain whatsoever. He conceives, That if He should passe this, He should retain nothing but the Ceremonious Ensignes of Royalty, or the meer sight of a Crown and Scepter; (nay the Stock being dead, the Twigs would not long flourish;) but as to true, and reall power, He should remain, but the outside, the picture, the signe of a King. Could his
be,

be, If all Parliaments were not taken as deadly enemies to Royalty? the substance of the request seems to be no more but this, That it would please the King to be advised by Parliaments, rather than His own meer understanding, or any interiour Councillors in those things which concern the liberties, and lives of the whole people. And how could this request seem equall to a demanding of the Crown, to a dethroning of the King, and to a leaving of the Kingdom destitute of protection, if Parliaments were not supposed mortall enemies to Princes, and Princes not supposed, but openly declared enemies to Parliaments; if the King choose such a man Treasurer or Keeper out of his own good liking only, or upon recommendation of such a Courtier, here he is devested of no power; but if it be upon the recommendation of the whole Kingdome in Parliament, who in all probability can judge better, and are more concerned, this is an emptying himself of Majesty, and devesting himself of Power. Ordinary reason cannot suggest otherwise hereupon, but either Parliaments affect not Kings, nor their own good, nor would make good elections, or else Kings affect not Parliaments, nor the Kingdoms good, and therefore they oppose such elections, meerly because they are good: but let us observe the Kings reasons against Parliametary elections; For first, *He conceives them prejudiciall for the people*: Secondly, *Dishonourable to himself*.

Man is by nature of restless ambition; as the meanest vassall thinks himself worthy of some greatnesse, so the most absolute Monarch aspires to something above his greatnesse. Power being once obtained by haughty mindes, quickly discovers that it was not first aimed at meerly to effect Noble actions, but in part to insult over others; and ambitious men thirst after that power which may do harm, as well as good; nay, though they are not resolved to do harm, yet they would be masters of it, — *Qui nolunt occidere quenquam — Posse volunt*. And yet let this power be added, the minde still remains unfilled, still some further Terrestriall omnipotence, a sharing with God, and farrmounting above mortall condition is affected. Our Law has a wholesome Maxime, That the King may onely do that which is just; but Courtiers invert the sense of it, and tell him, That all is just which he may do, or which he is not restrained from doing by Law. Such and such things Princes ought not to do, though no Law limited them from doing thereof; but now those things which by nature they abhorre to do, yet they abhorre as much to be limited

ed from. That disposition which makes us averse from cruelty and injury, we account a noble and vertuous disposition ; but that Law which shall restrain us from the same is stomacked at, and resisted, as a harsh bit to put into our mouths, or bonds upon our arms. *Antoninus Pius* is greatly renowned for communicating all weighty affairs, and following publike advice and approbation in all great expedients of high concernment ; and he was not more honourable then prosperous therein. Had he been a meer servant to the State, he could not have condescended further ; and yet if he had done necessarily, what he did voluntarily, the same thing had been in the same manner effectual ; for tis not the meer putting or not putting of Law, that does alter the nature of good or evill. Power then to do such an evill, or not to do such a good, is in truth no reall power, nor desired out of any noblenesse, but rather windy arrogance ; and as it is uselesse to men truly noble, so to men that love evill for evill ends, tis very dangerous. What will *Nero* more despise, then to condescend as *Antoninus* did ? yet 'twere more necessary that *Nero* were limited then *Antoninus* ; for excessive power added to *Nero's* cruelty, serves but as Oyl poured upon flame. When Princes are as potent as vicious, we know what Ministers swarm about them ; and the end is, That as vast power corrupts and inclines them to ill Councells so they perish at last by Councillors worst of all. Tis pretended that Princes cannot be limited from evill, but they may be disabled from doing good thereby, which is not alwayes true ; and yet if it were, the people had better want some right, then have too much wrong done them : for what is more plain then this, That the *Venetians* live more happily under their conditionate Duke, then the *Turks* do under their most absolute Emperours. Nevertheless, if we consider the noble Trophies of *Rome* which it gained under Consuls, and conditionate Commanders, we may suppose that no defect at all could be in that popular and mixed government. And our neighbours in the *Netberlands* are a good instance ; for they being to cope with the most Puissant and free Prince of Christendom, being but the torn relique of a small Nation, yet for their defence, would not put themselves under a Dictatorian power, but they prepared themselves for that so terrible encounter, under the Conduct of a Generall much limited. Neither have those strained Commissions yeilded any thing but victories to the States, and solid honour to the Princes of *Orange* ; and what more, the mightiest Monarchis

narchs of our age have atchieved or enjoy'd, besides the filling of
 a phantastick humour with imaginary grandeur. I speak not this
 in favour of any alteration in *England*, I am as zealously addicted
 to Monarchy, as any man can, without dotage: but I know there
 are severall degrees of Prerogatives Royall, some whereof have
 greater power of protection, and lesse of oppression; and such I
 desire to be most studious of: In some things I know tis dangerous
 to circumscribe Princes, but in others there may be great danger in
 leaving them to their pleasure, and scarce any hope at all of benefit;
 and amongst other things, the choice of publike Officers, if the State
 have (at least) some share therein with the King, what considerable
 inconvenience can happen thereby to the State or King, is not in me
 to foresee: but if it have no share, experience sufficient teacheth us
 what great disasters may happen. And so for the dissolving and dis-
 solving of Parliaments; if the Parliament divide some part of that
 power with the King, I see great good, but no harm at all that can
 ensue, either to weaken the Crown, or disturb the subject there-
 by. But it will be said in the next place, *If this disables not the
 King from protecting the Subject, yet it diminishes his own Right, and
 leaves him but the shadow of Royalty.* This is grounded upon a great
 mistake; for some men think it a glorious thing to be able to kill, as
 well as to save, and to have a kinde of a Creators power over Sub-
 jects: but the truth is, such power procures much danger to ill Prin-
 ces, and little good to any; for it begets not so much love as fear in
 the subject, though it be not abused; and the fear of the subject does
 not give so perfect a Dominion as love. Were *Hannibal, Scipio,*
&c. the lesse honoured or beloved because they were not independ-
 ent? surely no, they were the lesse feared, and for the same cause the
 more honoured and beloved. Or were *Alexander, Pyrrhus, &c.* the
 more honoured or beloved, because they were independant? I be-
 lieve the contrary, and that they had lived more gloriously, and died
 lesse violently, if a more moderate power had rendred them lesse inso-
 lent in their own thoughts, and lesse feared in other mens. Was *Cæsar*
 the private man lesse successfull in his Warres, or lesse dear in all his
 souldiers eyes, or lesse powerfull in his Countrey-mens affections,
 then *Cæsar* the perpetuall Dictator? No, if the Imperiall Throne of
 the World added any thing to *Cæsar*, 'twas not excellence, nor true
 glory,

glory, 'twas but the externall complements of pomp and ostentation, and that might perhaps blow up his minde with vanity, and fill the people with jealousie, it could not make *Cæsar* a nobler, gallanter, greater *Cæsar* then he was. I expect no lesse then to be laugh't at at Court, and to be held the author of a strange paradox, by those men which stick not to say, That our King is now no more King of *Scotland*, then he is King of *France*, because his meer pleasure there, is not so predominant in all cases of good and evill whatsoever: but I regard not those fond things which cannot see in humane nature what is depraved in it, and what not, and what proceeds from vain, and what from true glory; and wherein the naturall perfection of power and honour, differs from the painted rayes of spurious Majesty and Magnificence. To me the Policy of *Scotland* seems more exquisite in poyn't of prerogative, then any other in *Europe*, except ours: And if the splendor, and puissance of a Prince consist in commanding religious, wise, magnanimous, warlike subjects, I think the King of *Scotland* is more to be admired then the King of *France*; and that he is so, to the meer ingenuity of Government, I ascribe it. But some will allow, *That to follow the pattern of Antoninus freely, and voluntarily, as he did, is not dishonourable in a Prince; but to be under any Obligation or Law to do so, is ignoble.* And this is as much as to say, That Law, though good, yet *quatenus* Law is burthenous to mans nature; and though it be so but to corrupted nature, in as much as it restrains from nothing, but that which nature in its purity would it self restrain from; yet corrupted nature it self is to be soothed and observed. I have done with this point: 'twas spoken in honour of *Hen. 7.* That he governed his subjects by his Laws, his Laws, by his Lawyers, and (it might have been added) his subjects, Laws and Lawyers by advice of Parliament, by the regulation of that Court which gave life and birth to all Laws. In this Policy is comprized the whole art of Sovereignty; for where the people are subject to the Law of the Land and not to the will of the Prince, and where the Law is left to the interpretation of sworn upright Judges, and not violated by power; and where Parliaments superintend all, and in all extraordinary cases, especially betwixt the King and Kingdom, do the faithfull Offices of Umpirage, all things remain in such a harmony, as I shall recommend to all good Princes.

The

The Parliament conceives that the King cannot apprehend any just fear from Sir *John Hotbam*, or interpret the meer shutting of *Hull* gates, and the sending away of Arms and Ammunition in obedience to both Houses, to be any preparation for Warre and Invasion against him at *Tork*, and therefore they resolve to raise Forces against those Forces which the King raises to secure himself from Sir *John Hotbam*. The King hereupon charges the Parliament of levying Warre against Him, under pretence of His levying Warre against them. This is matter of fact, and the World must judge whether the Kings preparations in the North be onely sutable to the danger of Sir *John Hotbam* or no; and whether the Parliament be in danger of the Kings strength there or no: Or whether is more probable at this time, that the King is incensed against the Parliament, or the Parliament against the King: or that the King is more intentive to assaile the Parliament, or the Parliament the King. 'Tis true, the King abjures any intention of making Warre against his Parliament; but what he intends against the malignant party in or out of Parliament, is not exprest: and the King abjures invasive Warre against them; but whether he think not himself first invaded already, is not exprest; and the specifying of a faction in Parliament of some few malignants, secures none; for none can plead force, and none ought to plead folly in Treasons of this nature, and the major part of the Houses can neither plead absence or dissent; and those which can, must not be their own purgators. Besides, the act of Sir *John Hotbam* is disputable; the King adjudges it Treason, the Parliament adjudge it no Treason; and the King has not declared whether he will refer this to the tryall of the sword only, or to some other tryall; and if so, To what kinde of tryall the judgement of a Parliament shall be submitted: If we call another Parliament to judge of this, so we may appeal in *infinitum*; and why another should be cleerer then this, we cannot imagine: If we could constitute a higher Court for this appeal, so we might do in *infinitum* also; but we know no higher can be imagined: and if we appeal to a lower, that were to invert the course of nature: and to confound all Parliaments for ever; if we call all the Kingdom to judge of this, we do the same thing as to proclaim Civill Warre, and to blow the Trumpet of generall confusion: And if we allow the King to be the

sole, supream competent Judge in this case, we resigne all into his hands, we give lives, liberties, Laws, Parliaments, all to be held at meer discretion? For there is in the interpretation of Law upon the last appeal, the same supremacy of power requisite, as is in making it; And therefore grant the King supream interpreter, and tis all one, as if we granted him to be supream maker of Law; and grant him this, and we grant him to be above all limits, all conditions, all humane bonds whatsoever. In this Intricacy therefore, where the King and Parliament disagree, and judgement must be supream, either in the one or other, we must retire to ordinary justice, And there we see, if the King consent not with the ordinary Judge, the Law thinks it fit, that the King subscribe, rather then the Judge.

And if this satisfie not, We must retire to the principles of Nature, and there search, whether the King or Kingdom be to be lookt upon as the efficient, and final cause, and as the proper Subject of all power. Neither is the oath of supremacy indangered hereby; for he that ascribes more to the whole universality, then to King; yet ascribes to the King a true supremacy of power, and honour above all particulars: Nor is our allegiance temerated, For when the Judge on the Bench delivers Law contrary to the Kings command; This is not the same thing, as to proceed against the Kings person, upon any judgement given against him. The King as to His own person, is not to be forcibly repelled in any ill doing, nor is He accountable for ill done, Law has only a directive, but no coactive force upon his person; but in all irregular acts where no personall force is, Kings may be disobeyed, their unjust commands may be neglected, not only by communities, but also by single men sometimes. Those men therefore that maintain, That all Kings are in all things and commands (as well where personall resistance accompanies, as not) to be obeyed, as being like Gods, unlimitable, and as well in evill, as in good unquestionable, are sordid flatterers. And those which allow no limits but directive only, And those no other but divine and naturall; And so make all Princes as vast in power as the Turk, (for He is subject to the directive force of God, and natures Laws;) and so allow subjects a dry right without all remedy, are almost as stupid as the former. And those lastly, That allow humane Laws to oblige Kings more then directive, in all cases,

cases where personall violence is absence, and yet allow no Judges of those Laws, but the King Himself, run into absurdities as grosse as the former.

I come now to those seven doctrines, and positions, which the King by way of recapitulation layes open as so offensive—And they run thus :

1. **T**hat the Parliament has an absolute indisputable power of declaring Law, So that all the right of the King and people, depends upon their pleasure. It has been answered, That this power must rest in them, or in the King, or in some interiour Court, or else all suites must be endlesse, and it can no where rest more safely then in Parliament.

2. That Parliaments are bound to no precedents. Statutes are not binding to them, Why then should precedents? Yet there is no obligation stronger then the Justice and Honor of a Parliament.

3. That they are Parliaments, and may judge of publike necessity without the King, and dispose of anything. They may not desert the King, but being deserted by the King, when the Kingdom is in distresse, They may judge of that distresse, and relieve it, and are to be accounted by the vertue of representation, as the whole body of the State.

4. That no Member of Parliament ought to be troubled for treason, &c. without leave. This is intended of suspicions only, And when leave may be seasonably had, and when competent accusers appear not in the impeachment.

5. That the Sovereign power resides in both Houses of Parliament, the King having no negative voyce. This power is not claimed as ordinary; nor to any purpose, But to save the Kingdom from ruine, and in case where the King is so seduced, as that He preferres dangerous men, and prosecutes His loyall Subjects.

6. That levying forces against the personall commands of the King, (though accompanied with his presence) is not levying warre against the King: But warre against His authority, though not person, is warre against the King? If this were not so, The Parliament seeing a seduced King, ruining Himself, and the Kingdom could not save both, but must stand and look on.

7. That according to some Parliaments, they may depose the King? Tis denied, That any King was deposed by a free Parliament fairly elected.

To stand in comparison with these, I shall recite some such positions as the Kings papers offer to us; And they follow thus.

1. **T**hat regall power is so derived from God and the Law, as that it has no dependence upon the trust, and consent of man; and the King is accountable therefore to God and His other Kingdoms, not to this; And it is above the determination of Parliaments, and by consequence boundlesse.

2. That the King is supream indefinitely, viz. As well universis, as singulis.

3. That the King has such a propriety in His Subjects, Towns, Forts, &c. As is above the propriety of the State, and not to be seized by the Parliament, though for the publike safety.

4. That so farre as the King is trusted, He is not accountable how He performs, So that in all cases the Subject is remediable.

5. That the being of Parliaments is meerly of grace, So that the King might justly have discontinued them, and being summoned, they are limited by the writ, and that ad consilium Only, and that but in quibusdam arduis, And if they passe the limits of the Writ, they may be imprisoned. That if the King desert them, they are a voyde assembly, and no honour due to them, nor power to save the Kingdom, That Parliamentary priviledges are no where to be read of, And so their representation of this whole Kingdom is no priviledge, nor addes no Majesty, nor authority to them. That the major part in Parliament is not considerable, when so many are absent, or dissent. That the major part is no major part, Because the fraud, and force of some few over-rules them. That Parliaments may do dishonourable things, say treasonable: Nay, That this hath been so

so blinded by some few malignants, That they have abetted treason in Sir John Hotham, Trampled upon all Law, and the Kings prerogative, And sought to inslave the whole Kingdom under the Tyranny of some few, And sought the betraying of Church, and State, And to effect the same erected an upstart Authority in the new Militia, and levied warre upon the King, under pretence that He levies warre upon them. That Parliaments cannot declare Law, but in such and such particular cases legally brought before them. That Parliaments are questionable, and tryable elsewhere.

These things, we all see, tend not only to the desolation of this Parliament, but to the confusion of all other, And to the advancing of the King to a higher power over Parliaments, then ever He had before over inferiour Courts. Parliaments have hitherto been Sanctuaries to the people, and banks against Arbitrary tyranny; But now the meer breath of the King, blasts them in an instant; and how shall they hereafter secure us, when they cannot now secure themselves? Or how can we expect justice, when the meer imputation of treason, without hearing, tryall, or judgement, shall sweep away a whole Parliament; nay all Parliaments for ever? And yet this is not yet the depth of our misery, For that private Councell which the King now adheres to, and preferres before Parliaments, will still inforce upon our understandings, That all these doctrines, and positions tend to the perfection of Parliaments; And all the Kings forces in the North, to the protection of Law and liberty. I finde my Reason already captivated, I cannot further —



FINIS.